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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,675	10/24/2003	Nick Stefano	322	9613

7590 10/06/2005

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EXAMINER

AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,675

Applicant(s)

STEFANO, NICK

Examiner

Bridget Avery

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8, 10-15, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I in the reply filed on September 16, 2005 is acknowledged.
2. Claims 8, 10-15, 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 16, 2005.

An action on the merits of claims 1-7, 9 and 16-18 follows.

Claim Objections

3. Claims 16-18 are objected to because of the following informalities: applicant's recitation of "platform-type" should be changed to –platform—. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 9, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US Patent 3,567,242).

Miller teaches an amusement vehicle similar to applicant's including: a support platform (2); a handlebar mounted upon and extending upwardly from the support platform (2); three ground contacting wheels (6a, 6b, 6c) mounted in a triangular pattern with a single wheel positioned to the rear and two paired side by side. Miller teaches a platform that is at least two feet in length. The wheel base of the vehicle is from one to two and a half feet in length based on a platform that is between two and three feet. Note, Miller in column 3, lines 47-50 teaches "the size and location of the wheels beneath the platform can be varied, depending upon the design and size considerations...." Re the handlebar, applicant's attention is directed to column 3, lines 40-42. Re the ability to perform wheelies, applicant's attention is directed to column 3, lines 1-5 and line 30-31. Re the position of the wheels, applicant's attention is directed to column 1, lines 43-45.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller ('242).

Miller teaches the features described above.

Miller lacks the exact teaching of a wheel base from one and a quarter to one and three quarters feet in length.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the wheel base of Miller to be one and a quarter to one and three quarters in length, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gu shows a twist vehicle with rear operation system.

Tsai shows a steering device for a skateboard.

Nasco shows a wheel mounted cane with brake.

Tsai shows a skateboard with steering means.

Valdez et al. shows a steerable platformed vehicle for play or industrial use.

Skolnik shows a toy vehicle.

Saunders shows a transfer stand.

Smith shows a scooter.

Kite et al. shows a whirlable vehicle.

Wolner shows a coaster vehicle for children.

Hyslop, Jr. et al. shows a portable elevator.

Remacle shows a caster for toys.

Martin shows a coaster.

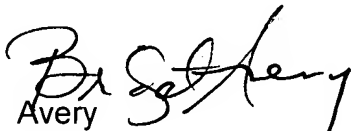
Johnson shows an amusement device.

Root shows a velocipede.

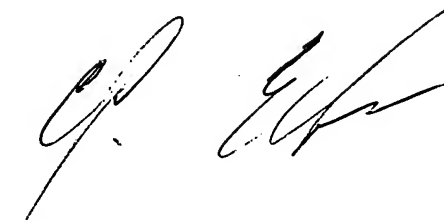
Frazier, deceased et al. shows an oxygen tank cart.

Kousens shows a dolly.

7. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.


Avery

September 28, 2005


CHRISTOPHER P. ELLIS
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